

§ 401.6(c) of the implementing regulation. The patent holder may submit information and argument in opposition to the proposed march-in in person, in writing, or through a representative.

(d) If the NSF Patent Assistant determines that a genuine dispute over material facts exists, he or she will identify the disputed facts and notify the NSF General Counsel. The General Counsel will create a cross-directorate fact-finding panel, which will establish its own fact-finding procedures within the requirements of § 401.6(e) of the implementing regulation based on the dimensions of the particular dispute. The Patent Assistant will serve as secretary to the panel, but will not take part in its deliberations. Written findings of facts will be submitted to the General Counsel, sent by certified mail to the patent holder, and made available to all other interested parties.

(e) The NSF General Counsel will determine whether and how the Foundation should exercise a march-in right as provided in § 401.6(g) of the implementing regulation.

§ 650.14 Request for conveyance of title to NSF.

(a) The procedures established by this section apply to the exercise of the Foundation's right under paragraph (d) of the Patent Rights clause in § 650.4(a) to request conveyance of title to a subject invention if certain conditions exist.

(b) The NSF Patent Assistant may request the recipient of an NSF award to convey to the Foundation or a designee title in one or more countries to any invention to which the awardee has elected not to retain title. The NSF Patent Assistant may request immediate conveyance of title to a subject invention if the awardee fails (1) to submit a timely invention disclosure, (2) to make a timely election to retain patent rights, or (3) to file a timely patent application; but only if he or she determines that such action is required to preserve patent rights.

(c) The NSF Patent Assistant will informally review any apparent failure by an awardee to comply with the requirements of paragraph (c) of the Patent Rights clause in § 650.4(a). The interested institution, the inventor, the

patent holder, and any other interested party will be given an opportunity to explain why a particular invention was not disclosed, why an election was not made, or why a patent application was not filed. If the Patent Assistant determines that a genuine dispute over material facts exists, a cross-directorate fact-finding panel will be appointed by the General Counsel. The panel will establish its own fact-finding procedures based on the dimensions of the particular dispute. Written findings of facts will be submitted to the General Counsel, sent by certified mail to the patent holder, and made available to all other interested parties.

(d) The NSF General Counsel will determine whether the Foundation should request conveyance of title or if it should retain title obtained under § 650.14(b).

§ 650.15 Appeals.

(a) All actions by the NSF Patent Assistant under § 650.8 denying an inventor's request to retain rights to a subject invention, under § 650.12 denying a request for waiver, or under § 650.14(d) denying the existence of a material dispute may be appealed to the Director of the NSF Division of Grants and Contracts by an affected party within thirty days. A request under § 650.14(b) to immediately convey title to the Foundation may be appealed to the DGC Director by the title holder within five days.

(b) All actions by a Grants and Agreements Officer or Contracting Officer refusing to eliminate restrictions on or limitation of the right of an awardee to retain title to subject inventions imposed under § 650.5 of this regulation may be appealed to the Director of the NSF Division of Contracts, Policy, and Oversight (CPO) by an affected party within thirty days.

(c) A decision by the General Counsel to exercise a march-in right or to request conveyance of title may be appealed by the patent holder or any affected licensee to the NSF Deputy Director within thirty days. When a march-in was initiated in response to a petition, the General Counsel's decision not to exercise a march-in right or to exercise it in a manner different from that requested in the petition